

CHAPTER 155

HB 256 – FINAL VERSION

04Mar2009... 0249h

05/20/09 1573s

10Jun2009... 2097eba

2009 SESSION

09-0762

10/05

HOUSE BILL 256

AN ACT relative to the New Hampshire accountancy act.

SPONSORS: Rep. Headd, Rock 3; Rep. D. Petterson, Rock 10

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes various changes to the regulation of accountants by the board of accountancy under RSA 309-B, the New Hampshire accountancy act.

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Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to the New Hampshire accountancy act.

Be it Enacted by the Senate and House of Representatives in General Court convened:

155:1 Definitions; Attest. Amend RSA 309-B:3, I to read as follows:

I.(a) "Attest" means providing the following financial statement services:

(1) Any audit or other engagement to be performed in accordance with the American Institute of Certified Public Accountants' ~~[Auditing Standards Board's]~~ Statements on Auditing Standards (SAS).

(2) Any review of a financial statement ~~[or compilation of a financial statement]~~ to be performed in accordance with the American Institute of Certified Public Accountants' ~~[Auditing Standards Board's]~~ Statements on Standards for Accounting and Review Services (SSARS).

(3) Any examination of prospective financial statements to be performed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements (SSAE).

(4) Any engagement to be performed in accordance with the Public Company Accounting Oversight Board's Auditing Standards.

(b) The Statements on Standards specified in subparagraph (a) ~~[(1)-(3) above]~~ shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants.

155:2 New Paragraph; Definition; Compilation. Amend RSA 309-B:3 by inserting after paragraph III the following new paragraph:

III-a. "Compilation" means providing a service to be performed in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Accounting and Review Services (SSARS) that is presenting in the form of financial statements, information that is the representation of management without undertaking to express any assurance on the statements.

155:3 New Paragraph; Definition; Home Office. Amend RSA 309-B:3 by

inserting after paragraph VII the following new paragraph:

VII-a. “Home office” means the location specified by the client as the address to which service described in RSA 309-B:8, I is directed.

155:4 New Paragraph; Definition; Principal Place of Business. Amend RSA 309-B:3 by inserting after paragraph XIII the following new paragraph:

XIII-a. “Principal place of business” means the office location designated by a licensee for purposes of substantial equivalency and reciprocity.

155:5 Definitions; Substantial Equivalency; Uniform Accountancy Act. Amend RSA 309-B:3, XVIII and XIX to read as follows:

XVIII. “Substantial equivalency” is a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in ~~[this chapter and rules relating thereto adopted under RSA 541-A]~~ the Uniform Accountancy Act, or that the individual certified public accountant’s education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in ~~[this chapter and rules relating thereto adopted under RSA 541-A]~~ the Uniform Accountancy Act. In ascertaining substantial equivalency as used in this statute, the board shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

XIX. “Uniform Accountancy Act” means the ~~[third]~~ July 27, 2007 edition of the model legislation developed jointly by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy ~~[as published in 1998]~~.

155:6 Education Requirements. RSA 309-B:5, III(b) is repealed and reenacted to read as follows:

(b) After January 1, 2005 and until June 30, 2014, at least 120 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a

college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate.

(c) On or after July 1, 2014, at least 150 semester hours of college education including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate; provided however, that candidates for a certificate may sit for the examination described in paragraph IV if they have at least 120 semester hours of college education including a baccalaureate degree conferred by a college or university acceptable to the board the total educational program to include an accounting concentration or equivalent as determined by board rule to be appropriate. The applicant's degree shall include 30 semester hours of accounting courses. The accounting credits shall include coverage in financial accounting auditing, taxation, and management accounting. In addition, the degree shall include, or be supplemented by, 24 semester hours of business courses other than accounting courses. These business courses may include, but not be limited to, coverage in the areas of business law, business information systems, finance, professional ethics, business organizations, and economics.

155:7 Examinations. Amend RSA 309-B:5, V to read as follows:

V. An applicant shall be required to pass all sections of the examination provided for in paragraph IV in order to qualify for a certificate. A passing grade for each section shall be 75. The applicant shall pass all sections of the examination within 18 months of the examination at which the first section was passed. ~~[No candidate shall be allowed more than 10 attempts to complete all sections of the examination.]~~

155:8 Experience Requirements. RSA 309-B:5, IX(a) and (b) are repealed and reenacted to read as follows:

(a) Until June 30, 2014, 2 years for a candidate with a 4-year college degree, or the equivalent, and one year for a candidate holding a master's degree in accounting, taxation, finance, or business administration.

(b) On or after July 1, 2014, one year.

155:9 Substantial Equivalency. RSA 309-B:6 is repealed and reenacted to read as follows:

### 309-B:6 Substantial Equivalency.

I. The practice, privilege, and discipline for substantially equivalent individuals shall be governed by the following provisions:

(a) An individual whose principal place of business is not in this state and who holds a valid certificate or license as a certified public accountant from any United States jurisdiction which the board or its designee has verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8. Notwithstanding any other provision of law, an individual qualifying under this subparagraph may offer or render professional services, whether in person or by mail, telephone, or electronic means, based on a practice privilege, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph III.

(b) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any United States jurisdiction which the board or its designee has not verified to be in substantial equivalence with the certified public accountant licensure requirements of the Uniform Accountancy Act shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all rights and privileges of certificate holders and licensees of this state without the need to obtain a certificate under RSA 309-B:7 or a permit under RSA 309-B:8 if such individual obtains from the board or its designee verification that such individual's certified public accountant qualifications are substantially equivalent to the certified public accountant licensure requirements of the Uniform Accountancy Act. Any individual who has passed the Uniform CPA Examination and holds a valid license issued by any other state prior to July 1, 2014 may be exempt from the education requirements in the Uniform Accountancy Act for purposes of this subparagraph. Notwithstanding any other provision of law, an individual qualifying under this subparagraph may offer or render professional services, whether in person or by mail, telephone, or electronic means, based on a practice privilege, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements in paragraph III.

II. A licensee of this state offering or rendering services or using this state's certified public accountant designation in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline in the other state. Notwithstanding RSA 309-B:11, I, the board shall be required to investigate any complaint made by the board of accountancy of another state.

III. Any individual licensee of another state exercising the privileges afforded under subparagraph I(a) or (b) and the firm which employs that licensee hereby simultaneously consents, as a condition of the grant of this privilege:

- (a) To the personal and subject matter jurisdiction and disciplinary authority of the board;
- (b) To comply with this chapter and the rules of the board;
- (c) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and
- (d) To the appointment of the out-of-state board of accountancy which issued their license as their agent upon whom process may be served in any action or proceeding by this board against the licensee.

IV. An individual who qualifies for practice privileges under this section who, for any entity with its home office in this state, performs any of the following services may only do so through a firm which has obtained a permit issued under RSA 309-B-8:

- (a) Any financial statement audit or other engagement to be performed in accordance with Statements on Auditing Standards;
- (b) Any examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements; or
- (c) Any engagement to be performed in accordance with PCAOB Auditing Standards.

155:10 Issuance and Renewal of Certificates. Amend RSA 309-B:7, I and II to read as follows:

I. The board shall grant or renew certificates to persons who make application and demonstrate that their qualifications, including where applicable the qualifications prescribed by RSA 309-B:5, are in

accordance with the requirements of this section, or that they are eligible for licensure under the substantial equivalency standards set out in RSA 309-B:6. The holder of a certificate issued under this section may provide attest services as defined in RSA 309-B:3, I(a), and compilation services as defined in RSA 309-B:3, III-a, only in a CPA firm that holds a permit issued under RSA 309-B:8.

II. Certificates shall be initially issued, and renewed, for periods of not more than 3 years. Annual periods shall coincide with the state's fiscal year, beginning on July 1 and ending on the subsequent June 30. Applications for such certificates shall be made in such form, and in the case of applications for renewal, between such dates, as the board shall by rule specify. The licensee shall have 60 days to renew the certificate. If the renewal forms and fees are not submitted within 60 days after the expiration date of the license, the licensee shall file an application for return to active practice which shall be required to return to active status. A certificate shall remain valid for the period of time that the board requires to act on the application for renewal, provided that the renewal was submitted in accordance with the rules adopted by the board. The board shall grant or deny any application no later than 90 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional certificate, which shall expire 90 days after its issuance or when the board determines whether or not to issue or renew the certificate for which application was made, whichever shall first occur.

155:11 New Paragraph; Reciprocity. Amend RSA 309-B:7 by inserting after paragraph III the following new paragraph:

III-a.(a) As an alternative to the requirements of paragraph III, a certificate holder licensed by another state who establishes his or her principal place of business in this state shall request the issuance of a certificate from the board prior to establishing such principal place of business. The board shall issue a certificate to such person who obtains from the NASBA National Qualification Appraisal Service verification that such individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act.

(b) An application under this paragraph may be made through the NASBA Qualification Appraisal Service.

155:12 Fee; Reciprocity. Amend RSA 309-B:7, IV to read as follows:

IV. The board may charge a fee to any licensee of another state ~~[exercising the privileges afforded] receiving a reciprocal certificate under this section, in accordance with rules adopted by the board.~~

155:13 New Paragraphs; Renewal; Rulemaking; Inactive Status.  
Amend RSA 309-B:7 by inserting after paragraph XII the following new paragraphs:

XIII. The board shall by rule require as a condition for renewal of a certificate under this section, by any certificate holder who issues compilation reports for the public other than through a CPA firm, that such individual undergo, no more frequently than once every 3 years, a peer review conducted in such manner as the board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services.

XIV. Upon the request of a licensee or certificate holder who is a member of any reserve component of the armed forces of the United States or the national guard and is called to active duty, the board shall place the person's license or certificate on inactive status. The license or certificate may be reactivated within one year of the person's release from active status by payment of the renewal fee and with proof of completion of the most current continuing education requirement unless still within the renewal period.

155:14 Firm Permits to Practice; Attest Experience and Peer Review.  
RSA 309-B:8, I is repealed and reenacted to read as follows:

I. The board shall grant or renew permits to practice as a CPA firm to applicants that demonstrate their qualifications therefor in accordance with this section.

(a) The following are required to hold a permit issued under this section:

(1) Any firm with an office in this state performing attest services as defined in RSA 309-B:3, I, or compilation services under RSA 309-B:3, III-a;

(2) Any firm with an office in this state that uses the designation "CPAs" or "CPA firm"; or

(3) Any firm that does not have an office in this state but performs attest services described in RSA 309-B:3, I(a)(1), (3), or (4) for a client having its home office in this state.



(b) A firm which does not have an office in this state may perform services described in RSA 309-B:3, I(a)(2) and RSA 309-B:3, III-a for a client having its home office in this state and may use the designation “CPAs” or “CPA firm” without a permit issued under this section only if:

(1) It has the qualifications described in paragraphs III and VIII of this section; and

(2) It performs such services through an individual with practice privileges under RSA 309-B:6.

(c) A firm which is not subject to the requirements of subparagraphs (a)(3) or (b) of this paragraph may perform other professional services while using the title “CPA” or “CPA firm” in the state without a license issued under this section only if:

(1) It performs such services through an individual with practice privileges under RSA 309-B:6; and

(2) It can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

155:15 Applicants for Issuance or Renewal. Amend RSA 309-B:8, III to read as follows:

III. An applicant for initial issuance or renewal of a permit to practice under this section shall be required to show that:

(a) Notwithstanding any other provision of law, at least a [51 percent] simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state of the United States and such partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state, hold a valid certificate issued under RSA 309-B:5 or the corresponding provisions of prior law or are public accountants licensed under RSA 309-B:9. Firms may include non-licensee owners but the firm and its ownership shall comply with rules adopted by the board. For firms of public accountants, at least a [51 percent] simple majority of the ownership of the firm, in terms of financial interests and voting rights, shall belong to holders of registration under RSA 309-B:9. An individual who has practice privileges under RSA 309-B:6 and who performs services for which a firm permit is required under RSA 309-B:6, IV shall not be required to obtain a certificate from this state

pursuant to RSA 309-B:5.

(b) Any CPA or PA firm may include non-licensee owners provided that:

(1) The firm designates a licensee of this state, or in the case of a firm which must have a permit pursuant to RSA 309-B:6, IV a licensee of another state who meets the requirements in RSA 309-B:6, I, who is responsible for the proper registration of the firm and identifies that individual to the board.

(2) All non-licensee owners are active individual participants in the CPA or PA firm or affiliated entities.

(3) The firm complies with such other requirements as the board may impose by rule.

(c) Any individual licensee and any individual qualifying for practice privileges under RSA 309-B:6 who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the appropriate experience requirements for such services as required by professional standards for such services.

(d) Any individual licensee and any individual qualifying for practice privileges under RSA 309-B:6 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience requirement of RSA 309-B:8, III(c).

155:16 Unlawful Acts. Amend RSA 309-B:14 to read as follows:

309-B:14 Unlawful Acts.

I. Only licensees, individuals who have practice privileges under RSA 309-B:6, and firms exempt from the permit requirement under RSA 309-B:8, may issue a report on financial statements of any other person, firm, organization, or governmental unit or otherwise offer to render or render any attest service. This restriction shall not prohibit any act of a public official or public employee in the performance of that person's duties as such; or prohibit the performance by any person from the use of accounting skills, or analyzing and preparing projections of financial data in the performance of management advisory services, financial advisory services, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters. This restriction also does not apply to non-licensees who may prepare financial statements and issue reports thereon which do not purport to be in compliance with the Statements on Standards for Accounting and

Review Services (SSARS).

II. Licensees, individuals who have practice privileges under RSA 309-B:6, and firms exempt from the permit requirement under RSA 309-B:8, performing attest services shall provide those services pursuant to statements on standards relating to those services adopted by reference or directly by the board.

III. No person not holding a valid certificate or a practice privilege under RSA 309-B:6 shall use or assume the title or designation “certified public accountant,” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

IV. No firm shall provide attest services or assume or use the title or designation “certified public accountants,” or the abbreviation “CPAs,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a CPA firm unless (1) the firm holds a valid permit issued under RSA 309-B:8~~], and (2) ownership of the firm is in accord with this chapter and rules adopted by the board]~~ or is in compliance with a valid exemption from the permit requirement pursuant to RSA 309-B:8.

V. No person shall assume or use the title or designation “public accountant,” or the abbreviation “PA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless such person holds a valid registration issued under RSA 309-B:9.

VI. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8, or 309-B:9, unless they qualify for a practice privilege under RSA 309-B:6 or are exempt from the permit requirement under RSA 309-B:8, shall provide attest services or assume or use the title or designation “public accountant,” the abbreviation “PA,” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants.

VII. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8, or 309-B:9, or qualifying for a practice privilege under RSA 309-B:6, or an exemption from the permit requirement under RSA 309-B:8, shall assume or use the title or designation “certified accountant,” “chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” or any other title or designation likely to be confused with the titles “certified public accountant” or “public

accountant,” or use any of the abbreviations “CA,” “LA,” “RA,” “AA,” or similar abbreviation likely to be confused with the abbreviations “CPA” or “PA.” The title “Enrolled Agent” or “EA” may only be used by individuals so designated by the Internal Revenue Service.

VIII. Persons not licensed under this chapter, unless they qualify for a practice privilege under RSA 309-B:6 or are exempt from the permit requirement under RSA 309-B:8, shall not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue safe harbor language ~~[non-licensees] that persons not licensed under this chapter, or not qualifying for a practice privilege under RSA 309-B:6, or not exempt from the permit requirement under RSA 309-B:8 may use in connection with such financial information. Such disclaimer language shall include the following:~~

“I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any form of assurance on them.”

IX. No person or firm not holding a valid certificate, permit, or registration issued under RSA 309-B:7, 309-B:8, or 309-B:9, or qualifying for a practice privilege under RSA 309-B:6, or an exemption from the permit requirement under RSA 309-B:8, shall assume or use any title or designation that includes the words “accountant,” “auditor,” or “accounting,” in connection with any other language, including the language of a report, that implies that such person or firm holds such a certificate, permit, or registration or has special competence as an accountant or auditor. This paragraph shall not prohibit any officer, partner, or employee of any firm or organization from affixing a signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that person holds, nor shall it prohibit any act of a public official or employee in the performance of that person’s duties. Nothing in this chapter shall prohibit non-licensees who perform services involving the use of accounting skills from describing such services as “bookkeeping,” “tax preparation” or “general accounting” services, or describing themselves as “accountants.”

X. No persons holding a certificate or registration, individual

qualifying for a practice privilege under RSA 309-B:6, or firm holding a permit under this chapter or an exemption from the permit requirement under RSA 309-B:8, shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons or number of persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter; provided, however, that names of one or more of the former partners, members, managers or shareholders may be included in the name of a firm or its successor.

XI. No provision of this section shall have any application to a person holding a certification, designation, degree, license, or permit granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in such country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds such entitlement, who performs no attest services as defined, and who issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this state, and who does not use in this state any title or designation other than the one under which that person practices in such country, followed by a translation of such title or designation into English, if it is in a different language, and by the name of such country.

XII. No holder of a certificate issued under RSA 309-B:7 or a registration issued under RSA 309-B:9 shall perform attest services described in RSA 309-B:3, I(a) or compilation services described in RSA 309-B:3, III-a in any firm that does not hold a valid permit issued under RSA 309-B:8.

XIII.(a) A licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, also performs for that client an attest service as defined in RSA 309-B:3, I or a compilation of a financial statement when the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, expects, or reasonably might expect, that a third party will use the financial statement and the [licensee's] compilation report does not disclose a lack of independence.

(b) A licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, recommends or refers a product or service to which the commission relates.

(c) Any licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, who accepts a referral fee for recommending or referring any service of a licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

XIV.(a) A licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, shall not:

(1) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, or the licensee's firm or firm of the individual qualifying for a practice privilege under RSA 309-B:6 performs an attest service as defined in RSA 309-B:3, I or a compilation of a financial statement when the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, expects, or reasonably might expect, that a third party will use the financial statement and the [licensee's] compilation report does not disclose a lack of independence; or

(2) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client; provided however that a licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, may prepare an amended return or claim for refund for a contingent fee if that licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, has a reasonable expectation that the amended return or claim for refund will be the subject of substantive review by the taxing authority.

(b) The prohibition in subparagraph (a) applies during the period in which the licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, is engaged to perform any of the services listed in subparagraph (a) and the period covered by any historical financial statements involved in any such listed services.

(c) Except as otherwise provided in this subparagraph, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. ~~[A licensee's] The fees of a licensee, individual qualifying for a practice privilege under RSA 309-B:6, or firm exempt from the permit requirement under RSA 309-B:8, may vary depending, for example, on the complexity of services rendered.~~

XV. Nothing within this section shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law, or from billing a client or receiving a fee from a client in conformity with the professional conduct rules that govern the practice of law by such attorney or firm of attorneys.

XVI. Notwithstanding any provision of this section, it shall not be a violation of this section for a firm which does not hold a valid permit under RSA 309-B:8 and which does not have an office in this state to provide its professional services in this state if it complies with the requirements of RSA 309-B:8, I(b) or (c), whichever is applicable.

155:17 Repeal. RSA 309-B:5, XI, relative to rulemaking for minimum experience requirements, is repealed.

155:18 Effective Date. This act shall take effect July 1, 2009.

Approved: July 8, 2009

Effective Date: July 1, 2009